

Is Your FestivALE Compliant?

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By now, you probably have read at least one media account of the North Carolina Alcohol Law Enforcement ("ALE") activity at North Carolina beer festivals. The beer economy in North Carolina is big business. As the industry has emerged, North Carolina has celebrated the arrival of 131 permitted breweries, including Oskar Blues Brewery, Sierra Nevada Brewing Co., and the anticipated opening of New Belgium Brewing Co., Inc. There also are rumors of other breweries considering locating here, such as Deschutes Brewery, Cigar City Brewing, and others. As the industry has continued to expand, it also has experienced some growing pains. This recently became clear in western North Carolina when enforcement actions by the ALE interrupted a couple of high-profile festivals. The issues surrounding festivals stem from a lack of understanding with respect to the required permits, permitted conduct by those serving alcohol at festivals, and a historical lack of enforcement action by the ALE. As a result, festival organizers across the state have turned their attention to ensuring compliance by participating breweries.

So what should be top of mind when organizing, participating, and hosting a festival?

- All breweries that participate in a beer festival in North Carolina are required to hold certain permits from the North Carolina Alcoholic Beverage Control Commission. The types of permits required vary depending on whether the brewery is located in North Carolina or out-of-state. All alcohol-related product that is served at beer festivals also must be approved by the state of North Carolina.
- Brewery employees or festival volunteers, who are serving the public or performing other duties on behalf of the brewery, cannot consume any alcohol until they are relieved of their duties. This rule stems from ALE's application of a regulation that prohibits an employee from performing any work after consuming alcohol. This particular regulation led to issues at Asheville's Beer City Fest for some of the participating breweries. Both this regulation and the product approval requirement are in place to protect the health, safety, and welfare of the consuming public.

Festival organizers must become more aware and proactive when it comes to festival permitting and compliance. Ward and Smith, P.A. has developed a festival packet that outlines various facets of festival management, including permitting requirements, product donation issues, volunteer expectations, and festival best practices. For more information, contact Derek J. Allen at (dja@wardandsmith.com) or Hayley R. Wells (hrw@wardandsmith.com).

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